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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,410	04/13/2004	Robert M.M. Haddock	50200-00056	3245
25231 7590 12/26/2007 MARSH, FISCHMANN & BREYFOGLE LLP 3151 SOUTH VAUGHN WAY SUITE 411 AURORA, CO 80014			EXAMINER GILBERT, WILLIAM V	
			ART UNIT 3635	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/823,410	Applicant(s) HADDOCK, ROBERT M.M.	
	Examiner William V. Gilbert	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 31-63 is/are pending in the application.
- 4a) Of the above claim(s) 7-11, 14, 15, 32-37, 46, 48, 55-59, 62 and 63 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 12, 13, 31, 38-45, 47, 49-54, 60, 61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>13 April 2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is a First Action on the Merits. Claims 7-11, 14, 15, 32-37, 46, 48, 55-59, 62, 63 are withdrawn. Claims 16-30 are cancelled. Claims 1-6, 12, 13, 31, 38-45, 47, 49-54, 60 and 61 are examined.

Election/Restrictions

1. Applicant's election without traverse of Claims 1-6, 12, 13, 31, 38-45, 47, 49-54, 60 and 61 in the reply filed on 18 October 2007 is acknowledged.

Claim Objections

2. Claims 1-6, 12, 13, 31, 38-45, 47, 49-54, 60 and 61 are objected to because of the following informalities: in the preamble, applicant claims "A clamp/panel assembly". The character "/" is unclear as to whether the claim is to be drawn to a "clamp **and** panel" or a "clamp **or** panel". The examiner suggests the language "clamp and panel assembly". Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-4 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bellem (U.S. Patent No. 5,222,340) in view of Hague (U.S. Patent No. 4,467,582) and Chen (U.S. Patent No. 5,176,462).

Claim 1: Bellem discloses a panel assembly (Fig. 2) of interconnected panels having a base section (proximate 16) and a

rib (22) and a clamp mounted on a rib having a first clamping member (44) that engages a first sidewall of the first rib and extends beyond the first rib, a second clamping member (42) that engages a second sidewall of the first rib and extends beyond the first rib, the second clamping member is pivotable relative to the first clamping member (they may pivot relative to each other about the threaded member, 70) a first fastener (70) located beyond the rib and associated with each of the first and second clamping member. Bellem does not disclose the limitations of the panel having a plurality of base portions or ribs between the base portions, and the limitations of the ribs as claimed. Hague discloses a panel with a plurality of ribs (Fig. 1: 28) and base members (proximate 26) where the ribs have first and second sidewalls (36, 38) that extend away from the base section. It would have been obvious at the time the invention was made to a person having ordinary skill in the art as a matter of duplication of parts to have multiple base portions and ribs as claimed because duplication of parts has no patentable significance unless a new and unexpected result is produced. *In re Harza*, 274 F.2d 669 (CCPA 1960). See MPEP §2144.04. Next, while Bellem discloses that the first and second members are pivotable relative to each other, it does not

disclose that they pivot during activation of the fastener. Chen discloses a fastening member (Fig. 3-1) that has first and second portions (11, 12 respectively) that are pivotable relative to one another (via portion 111), and a fastener (14) that when activated causes the second member to pivot relative to the first member to exert an inwardly-directed force on whatever is being clamped. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use the clamp in Chen with the system in Bellem because the clamps are functionally and would perform equally as well.

Claim 2: the ribs are hollow and trapezoidal (Bellem: Fig. 5, see portions proximate 16, 18 and 20).

Claims 3 and 52: the prior art of record discloses the first and second planes where the clamping member is disposed on either side of the second reference plane, the first clamping member (see attached Fig. 3-1 from Chen, below), where the first clamping member (11) has first, second and third sections as claimed (see "A", "B" and "C" below, respectively) with first and second different orientations (the orientations are different in that they are offset, see below), the second clamping member (12) has fourth and fifth sections ("D" and "E"

Claim 4: the prior art of record discloses the claimed invention except including a recess and projection (Chen: proximate 111), that the recess is in the first clamping member (11) and the projection is disposed in the recess, but not that

the recess is concave and arcuate and the clamping is convex and arcuate. It would have been obvious at the time the invention was made to a person having ordinary skill in the art as a matter of design choice to have this limitation because a configuration of an invention is a matter of choice that a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular configuration of the claimed subject matter was significant. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). See MPEP §2144.04.

Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bellem, Hague and Chen as applied to claim 1 above, and further in view of Eckart (U.S. Patent No. 6,602,016).

Claim 12: The prior art of record discloses the claimed invention except that one bore is threaded and one is non-threaded. Eckart discloses a clamping member that has a threaded and non-threaded bore (110, 112; as shown in Fig. 9, the fastener 174 is only partially threaded, which concludes that portion 110 is non-threaded and portion 112 would be threaded.) It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use a

threaded and non-threaded bore as a matter of functional equivalence that would perform equally as well as the attachment system in Bellem, Hague and Chen.

Claim 13: the fastener has the capability to extend completely through each member (see e.g. Chen, generally; Eckart may likewise extend completely through the base) and it lacks a nut (Chen, Eckart) for retaining the fastener relative to the clamping members.

Claims 31, 50, 60 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bellem in view of Hague and Eckart.

Claim 31: Bellem discloses a clamp and panel assembly comprising a panel assembly (Fig. 2) comprising a plurality of interconnected panels that have a base and ribs (proximate 16, 22, respectively), the rib has a sidewall (22) that extends away from the base and a clamp mounted on a rib having a first clamping member (44) that engages a sidewall of a rib and extends beyond the first rib, a second clamping member (42) that engages a second sidewall of a rib, and a fastener (70) located beyond the first rib and associated with each of the first and second clamping members wherein activation of the fastener

causes the clamping members to exert an inwardly directed force on the rib. Bellem does not disclose the limitations of the panel having a plurality of base portions or ribs between the base portions, and the limitations of the ribs as claimed.

Hague discloses a panel with a plurality of ribs (Fig. 1: 28) and base members (proximate 26) where the ribs have first and second sidewalls (36, 38) that extend away from the base section. It would have been obvious at the time the invention was made to a person having ordinary skill in the art as a matter of duplication of parts to have multiple base portions and ribs as claimed because duplication of parts has no patentable significance unless a new and unexpected result is produced. *In re Harza*, 274 F.2d 669 (CCPA 1960). See MPEP §2144.04. Bellem further does not disclose that the fastener lacks a nut for retaining the fastener. Eckart discloses a clamping system that has a fastener with a bore and a connector (174) that lacks a nut for retaining the fastener. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use a fastener that lacks a nut as a matter of functional equivalence that would perform equally as well as the attachment system in Bellem.

Claim 50: Bellem does not disclose that the fastener lacks a nut for retaining the fastener. Eckart discloses a clamping system that has a fastener with a bore and a connector (174) that lacks a nut for retaining the fastener. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use a fastener that lacks a nut as a matter of functional equivalence that would perform equally as well as the attachment system in Bellem.

Claim 60: The prior art of record discloses the claimed invention except that one bore is threaded and one is non-threaded. Eckart discloses a clamping member that has a threaded and non-threaded bore (110, 112; as shown in Fig. 9, the fastener 174 is only partially threaded, which concludes that portion 110 is non-threaded and portion 112 would be threaded.) It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use a threaded and non-threaded bore as a matter of functional equivalence that would perform equally as well as the attachment system in Bellem and Hague.

Claim 61: the fastener has the capability to extend completely through each member (see Chen, generally) and it

lacks a nut (Chen, Eckart) for retaining the fastener relative to the clamping members.

Claims 1, 5, 6, 38, 41-45, 49, 53 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haddock (U.S. Publication No. 2002/0088196) in view of Hague and Chen.

Claim 1: Haddock discloses a clamp and panel assembly comprising a panel assembly comprising a plurality of panels (58) having a base section (58) and rib (66) and a clamp (200) on the rib member that has a first portion (244) that engages a first sidewall of the rib and extends beyond the rib (in a horizontal direction) and a second portion (204) that engages a second sidewall of the rib and extends beyond the rib and a fastener (276). Haddock does not disclose the limitations of the panel having a plurality of base portions or ribs between the base portions, and the limitations of the ribs as claimed. Hague discloses a panel with a plurality of ribs (Fig. 1: 28) and base members (proximate 26) where the ribs have first and second sidewalls (36, 38) that extend away from the base section. It would have been obvious at the time the invention was made to a person having ordinary skill in the art as a matter of duplication of parts to have multiple base portions

and ribs as claimed because duplication of parts has no patentable significance unless a new and unexpected result is produced. *In re Harza*, 274 F.2d 669 (CCPA 1960). See MPEP §2144.04. Next, the prior art of record does not disclose that the clamp portions pivot during activation of the fastener. Chen discloses a fastening member (Fig. 3-1) that has first and second portions (11, 12 respectively) that are pivotable relative to one another (via portion 111), and a fastener (14) that when activated causes the second member to pivot relative to the first member to exert an inwardly-directed force on whatever is being clamped. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use the clamp in Chen with the system in Haddock because the clamps are functionally and would perform equally as well.

Claim 5: the sidewall has an indentation on the rib (Haddock, portion proximate 228a) and the second clamping member (Chen 12) has a head (proximate 122) that would be disposed in the indentation.

Claim 6: the first sidewall has an indentation (Haddock: proximate 268) on the exterior surface of the rib and the

clamping member (Chen) has a first head (proximate 113) that would be disposed in the indentation.

Claim 38: Haddock discloses a panel assembly (58) with a plurality of interconnected panels with a base section (58) and a rib portion (62), the ribs are in a non-parallel relation (portion 70 is not parallel with portion 66) and a clamp (200) mounted on the rib portion with a second head (228a) disposed in the second indentation (where portion 228a contacts the sidewall of the rib). Haddock does not disclose the limitations of the panel having a plurality of base portions or ribs between the base portions and the limitations of the ribs as claimed, though the sidewalls of the ribs (22) are in a non-parallel relationship, and the second sidewall has an indentation (proximate 26) on an exterior surface of the rib. Hague discloses a panel with a plurality of ribs (Fig. 1: 28) and base members (proximate 26) where the ribs have first and second sidewalls (36, 38) that extend away from the base section in a non-parallel relation and further has a second indentation (42). It would have been obvious at the time the invention was made to a person having ordinary skill in the art as a matter of duplication of parts to have multiple base portions and ribs as claimed because duplication of parts has no patentable

significance unless a new and unexpected result is produced. *In re Harza*, 274 F.2d 669 (CCPA 1960). See MPEP §2144.04.

Claim 41: the first sidewall has an indentation (Haddock: proximate 268) on the exterior surface of the rib and the clamping member (Chen) has a first head (proximate 113) that would be disposed in the indentation.

Claim 42: while the prior art of record discloses the heads, it does not disclose that the heads are convexly shaped. It would have been obvious at the time the invention was made to a person having ordinary skill in the art as a matter of design choice to have this limitation because a configuration of an invention is a matter of choice that a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular configuration of the claimed subject matter was significant. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). See MPEP §2144.04.

Claim 43: while Haddock discloses a clamping member (200), it does not disclose the limitations of the clamping member as claimed. Chen discloses a clamp with a first clamping member (Fig. 3-1: 11) having a first head ("H" above), a second clamping member (12) having a second head ("I" above) and is a separate piece from the first clamping member, and a first

fastener (14) located beyond the first rib and associated with both the first and second clamping members, wherein activation of the fastener causes the first and second clamping members to exert an inwardly-directed force on the rib. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use the clamp in Chen with the system in Haddock because the clamps are functionally equivalent and would perform equally as well.

Claim 44: the prior art of record discloses that activation of the first fastener (Chen (14) causes the second clamping member (Chen 12) to pivot (via 111) relative to the first clamping member (11)

Claim 45: the prior art of record discloses the first clamping member (Chen: 11) has a recess (proximate 111) and the second member (12) has a projection (111) disposed in the recess, and activation of the fastener (14) causes the second clamping member to move relative to the first clamping member at least generally about the first projection. The prior art of record does not disclose that the recess is concave and the projection is convex. It would have been obvious at the time the invention was made to a person having ordinary skill in the art as a matter of design choice to have this limitation because

a configuration of an invention is a matter of choice that a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular configuration of the claimed subject matter was significant. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). See MPEP §2144.04.

Claim 49: Haddock discloses a panel assembly with a plurality of interconnected panels that have a base (58) and rib (62) and a clamp mounted on the rib having a first clamping member (204) engaging a first sidewall of the rib and has a section disposed beyond the rib had has a threaded bore (284) where an attachment may be mounted to the clamp using the bore and a second clamping member (244) that extends beyond the rib (in the horizontal direction) and engages the first clamping member and a fastener (276). Haddock does not disclose the limitations of the panel having a plurality of base portions or ribs between the base portions, and the limitations of the ribs as claimed. Hague discloses a panel with a plurality of ribs (Fig. 1: 28) and base members (proximate 26) where the ribs have first and second sidewalls (36, 38) that extend away from the base section. It would have been obvious at the time the invention was made to a person having ordinary skill in the art as a matter of duplication of parts to have multiple base

portions and ribs as claimed because duplication of parts has no patentable significance unless a new and unexpected result is produced. *In re Harza*, 274 F.2d 669 (CCPA 1960). See MPEP §2144.04. Next, the prior art of record does not associate of the fastener with the first and second clamping members. Chen discloses a fastening member (Fig. 3-1) that has first and second portions (11, 12 respectively), and a fastener (14) associated with the first and second portion, that when activated causes the second member and first member to be retained on the rib. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use the clamp in Chen with the system in Haddock because the clamps are functionally equivalent and would perform equally as well.

Claim 53: the sidewall has an indentation on the rib (Haddock, portion proximate 228a) and the second clamping member (Chen 12) has a head (proximate 122) that would be disposed in the indentation.

Claim 54: the first sidewall has an indentation (Haddock: proximate 268) on the exterior surface of the rib and the clamping member (Chen) has a first head (proximate 113) that would be disposed in the indentation.

Claims 38-40, 47, 49 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bellem (U.S. Patent No. 5,222,340) in view of Hague (U.S. Patent No. 4,467,582).

Claim 38: Bellem discloses a clamp and panel assembly having a panel assembly (Fig. 5: 16) having a base section (proximate 16) and ribs (22), a clamp (44) mounted on a rib and comprising a second head (proximate 26) disposed in a second indentation (panel portion proximate 26). Bellem does not disclose the limitations of the panel having a plurality of base portions or ribs between the base portions, and the limitations of the ribs as claimed, though the sidewalls of the ribs (22) are in a non-parallel relationship, and the second sidewall has an indentation (proximate 26) on an exterior surface of the rib. Hague discloses a panel with a plurality of ribs (Fig. 1: 28) and base members (proximate 26) where the ribs have first and second sidewalls (36, 38) that extend away from the base section in a non-parallel relation and further has a second indentation (42). It would have been obvious at the time the invention was made to a person having ordinary skill in the art as a matter of duplication of parts to have multiple base portions and ribs as claimed because duplication of parts has no patentable

significance unless a new and unexpected result is produced. *In re Harza*, 274 F.2d 669 (CCPA 1960). See MPEP §2144.04.

Claim 39: Bellem in view of Hague disclose the rib is hollow and trapezoidal (see Bellem: portions 22, proximate 20 and top of base portion 28).

Claim 40: Bellem in view of Hague discloses the rib has a top wall (proximate 20) that would interconnect first and second sidewalls and would be disposed in a spaced relation to the first and second base sections.

Claim 47: Bellem discloses a clam having a first clamping member (portion proximate 44) engaged with the first sidewall of the rib, a second clamping member (proximate 42) engaged with a second sidewall of a rib, the member comprises the second head, and being a separate piece from the first clamping member and a first fastener (70) located beyond the first rib and engaged with the first and second clamping members, wherein activation of the fastener causes the clamping members to exert an inwardly directed force on the first rib. While Bellem discloses first and second rib portions, (22, side opposite 22) it does not disclose that these portions are of the same rib. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to have the rib portions from

one rib because the rib portions would be functionally equivalent and perform equally as well.

Claim 49: Bellem disclose a panel assembly comprising a plurality of panels that have a base section (proximate 16) and ribs (22), and a clamp mounted on the rib comprising a first clamping member (44) that engages a first sidewall of the first rib and has a section that is disposed beyond the rib, the first section member has a bore (noted by member 72) that notes where an attachment may be mounted, a second clamping member (42) that engages a second sidewall of a rib and engages the first clamping member, and a fastener (70) located beyond the rib and associated with each of the first and second clamping members, wherein activation of the first fastener retains the first and second clamping members on the first rib. Bellem does not disclose the limitations of the panel having a plurality of base portions or ribs between the base portions, and the limitations of the ribs as claimed. Hague discloses a panel with a plurality of ribs (Fig. 1: 28) and base members (proximate 26) where the ribs have first and second sidewalls (36, 38) that extend away from the base section. It would have been obvious at the time the invention was made to a person having ordinary skill in the art as a matter of duplication of parts to have

multiple base portions and ribs as claimed because duplication of parts has no patentable significance unless a new and unexpected result is produced. *In re Harza*, 274 F.2d 669 (CCPA, 1960). See MPEP §2144.04. Last, while Bellem discloses a bore, it does not disclose that the bore is threaded. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to thread the bore to aid in the attachment of the threaded member (70).

Claim 51: the first section of the first clamping member is at least generally parallel with the base section (see "P" from attached Figure 5 from Bellem below).

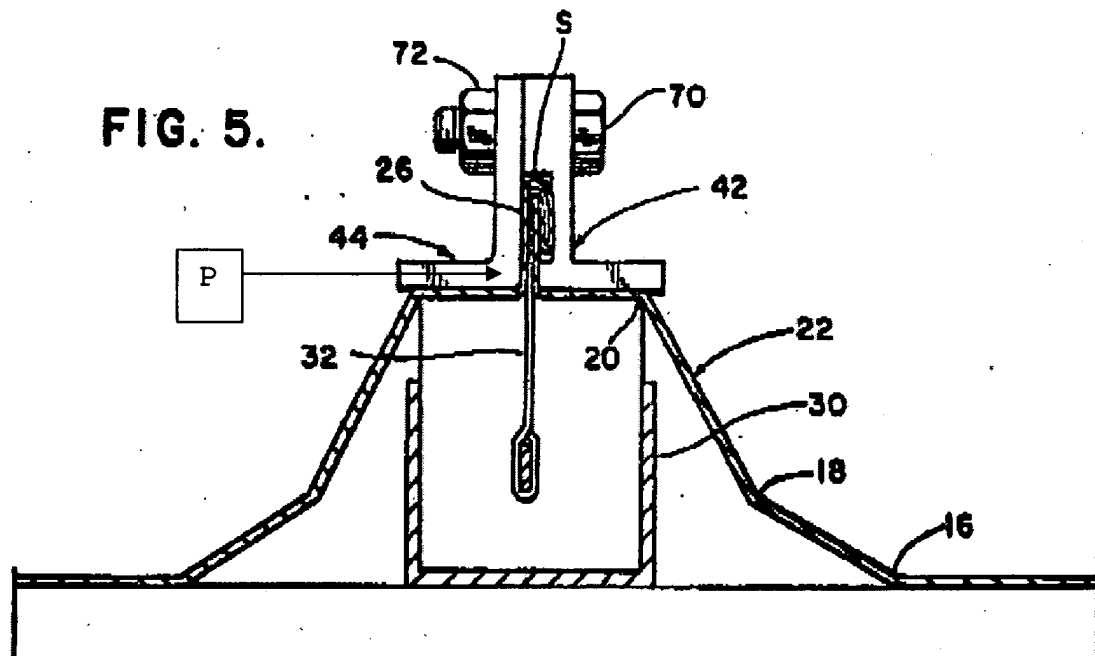


Figure 5 from Bellem

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William V. Gilbert whose telephone number is 571.272.9055. The examiner can normally be reached on Monday - Friday, 08:00 to 17:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571.272.6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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19 Dec 07

Barry K. Lutz
Patent Examiner
12/20/07